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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,102	08/30/2001	Boyd Shelton	IOME-0751	8416

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/943,102

Applicant(s)

SHELTON ET AL.

Examiner

TAN X. DINH

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9 and 19 is/are allowed.
- 6) ☒ Claim(s) 12,13,23,25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2653

1) The amendment filed 7/19/2005 is acknowledged. Claims 1-5,10,11,14-18,20-22 and 24 have been canceled.

2) Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "prior signals" ( claim 26, line 2 ) lacks clear antecedent basis. No "prior signals" has been previously recited in the parent claim 23, therefore the limitation cannot be understood.

3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention

Art Unit: 2653

dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5) Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over SUGITA ( 5,268,803 ) and KOBAYASHI et al ( 5,748,582 ).

SUGITA discloses a storage medium as claimed in claim 12, comprises a plurality of data sectors on each track ( Figs.2&3, see also column 2, lines 19-55 ), a plurality of servo sectors on each track ( column 2, lines 19-55 and servo sector in Fig. 3 ), each servo sector comprising a first location ( Fig.3, first burst signal BX ) and a second location ( Fig.3, second burst signal BY ) for a reset mark, wherein if the reset mark is located in the first location the reset mark has a first value, and if the reset mark is located in the second location the reset mark has a second value, and the values of reset marks of the plurality of servo sectors of a track represents a track number ( see the respective disclosure of Figs. 3 for details ), except to specifically show a first wobble bit a first wobble bit, the center of the first wobble bit located between a first track and a second track, the second track being adjacent to the first track and a second wobble bit, the center of the second wobble bit located between the second track and a third

track, the third track being adjacent to the second track. KOBAYASHI et al from the same field teaches an optical disk having a servo area includes first and second wobble bit located between first, second and third tracks ( Figs.11-13, servo area, first and second wobble bits ). Since the method of using first and second wobble bits is old and widely used in the optical recording medium, one of ordinary skill in the art at the time of the invention was made would have been motivated to use first and second wobble bits in SUGITA's optical recording medium as claimed.

As to claim 13, KOBAYASHI et al shows third and fourth wobble bits in figures 11-13.

6) Claims 23,25 and 26 are rejected under 35 U.S.C.103(a) as being unpatentable over SUGITA ( 5,268,803 ).

SUGITA discloses a method for aligning a reading device with a track of a storage medium having first set of wobble marks and second set of wobble marks as claimed in claim 23, comprises the step of reading a first signal from a second set of wobble marks in a second servo sector, reading a second signal representing a location of the reading device with respect to the track, determining a third signal based on the first and second signal and repositioning the reading device based the third signal ( column 2, line 17 to column 4, line 60 ), except to specifically show that reading second signal by reading first signal from first set of

wobble marks. It would have been obvious to someone within the level of skill in the art at the time of the invention was made to read second signal by reading first signal from first set of wobble marks in SUGITA's optical disk as claimed. The rationale is as follows: It is well known in optical recording art that the optical pick-up scans the optical disk in any desirable directions and the record signals can be read at any desirable orders or sequences. Thus, one of ordinary skill in the art at the time of the invention was made would have been motivated to read second signal by reading first signal from first wobble marks in SUGITA's optical disk as claimed.

As to claims 25 and 26, storing any signals or determines a third signal based on weighted average of first and prior signal are old and widely used in optical recording art.

7) Claims 6-9 *and* 19 are allowed.

8) Applicant's arguments with respect to claims 6-9,12,13,19,23,25 *and* 26 have been considered but are moot in view of the new ground(s) of rejection.

9) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. ( See form PTO-892 attached herein ).

Applicant is reminded that in amending in response to a rejection of claims ( if the rejection involves with any applicable

Art Unit: 2653

arts ), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY-FRIDAY from 8:00AM to 5:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TAN DINH**  
**PRIMARY EXAMINER**

September 26, 2005